

**TOWN OF ROCKY HILL
OPEN SPACE AND CONSERVATION COMMISSION
MEETING OF MAY 13, 2015**

1. CALL TO ORDER

Chairman Charamut called the Wednesday, May 13, 2015, meeting to order at 6:00 p.m. in the Town Council Room of the Rocky Hill Community Center, 761 Old Main Street, Rocky Hill, Connecticut.

Present: Ed Charamut, Chairman
 Craig Riedinger, Vice Chairman
 Sandra Kelly, Secretary
 Larry Lindenberger, Commissioner
 David Schweitzer, Commissioner
 Scott Stevens, Commissioner
 Todd Brown, Commissioner

Alternates: Christopher Duff
 Rachelle Leone
 Michelle Zak

Also: Steve Sopelak, Engineering Dept.
 Eileen A. Knapp, Recording Secretary

2. PLEDGE OF ALLEGIANCE

Everyone stood and recited the Pledge of Allegiance.

A MOTION was made by Vice Chairman Riedinger to move item 7A. Cease & Desist Order – ADC Enterprises Regulated Area Violations at 45 Evans Road-Discussion and course of action, up on the Agenda to item number 3. Seconded by Commissioner Kelly. All were in favor, MOTION CARRIED UNANIMOUSLY.

3. Cease & Desist Order – ADC Enterprises Regulated Area Violations at 45 Evans Road-Discussion and course of action

Chairman Charamut recused himself for this discussion and Commissioner Zak sat in for him. Vice Chairman Riedinger took over chairing the meeting.

Mr. Anthony Zemba, Ecologist with Fitzgerald and Halliday at 416 Asylum Avenue in Hartford addressed the Commission representing ADC Enterprises. His firm was asked to do a wetlands delineation in February but their firm recommended waiting until May to do the delineation. This would allow the snow to thaw and the river to go down. They were not aware of the cease and desist order specifics until they received a letter dated April 15th from Mr.

Sollmi notifying them that the Commission is requesting that the Restoration Plan be presented this evening. To date the wetland delineation has been completed and they have hired an engineering firm, AECOM to prepare a physical site plan with the wetland delineation lines on it. Once this site plan is completed, they can then go forward with a Restoration Plan. Mr. Zemba said they have done an inventory of the trees that were cut so they know the impact of the disturbance. He presented sketches of the wetlands delineation along with pictures of the site. Most of the stumps have viable stems growing and they will keep an eye on these during the growing season. The stumps should remain in place because the root systems are stabilizing the bank preventing massive failure. Mr. Zemba said because of the root systems there was very little erosion through the winter. Many trees and shrubs are coming in on their own in both the upland and wetland areas. He also presented pictures of the pier, which shows debris collected during the wintertime that flowed downriver and got stuck in the structure. Mr. Chiulli would like permission to clean this debris up.

Commissioner Comments/Questions

Commissioner Duff asked if the new shoots would actually grow into trees. Mr. Zemba said some species could return to a natural tree height.

Commissioner Schweitzer asked if Mr. Zemba's firm would be doing the Restoration Plan. Mr. Zemba said Mr. Chiulli has asked them for a proposal for the work, which they are preparing.

Commissioner Lindenberger asked if the wetlands begin at the toe of the slope. **Mr. Dan Hageman, Soil Scientist also with Fitzgerald and Halliday** said he flagged the area and most of the flags are at the toe of the slope. Commissioner Lindenberger asked if they determined the wetland boundaries through examination of just soils or if they included vegetation. Mr. Hageman said they mainly analyzed the soils because most of the vegetation is young and just beginning to come up. Commissioner Lindenberger asked if there is an immediate need to protect the new vegetation. Mr. Hageman said he did examine the bank for any erosion and he noticed the grass seed that was planted in the fall is growing. He feels there are no concerns about erosion at this time. Commissioner Lindenberger asked how long the Restoration Plan would take once Fitzgerald and Halliday gets the approval. Mr. Zemba said they will prepare the Restoration Plan as fast as possible taking into consideration the urgency of the matter. Commissioner Lindenberger was concerned about missing the planting season while the Restoration Plan is being prepared. Mr. Zemba said timing is a concern but they will look at what species will perform well on the slope and supplemental watering can be provided if needed.

Commissioner Kelly asked if what was presented was the final wetland delineation. Mr. Zemba said that the AECOM is providing the actual graphic site plan.

Commissioner Brown asked how they would go about removing the debris around the pier. Mr. Zemba said in the past they have used different methods for this type of work. They can use cables, barges, or traction timber mats. **Mr. Al Chiulli of 499 Pleasant Valley Road** said there is an access road that they can use to remove the debris using cables to pull it up the bank. He

said the DEEP would like the debris to be cleared. Mr. Chiulli said as soon as he gets the proposal from Fitzgerald and Halliday, he will sign it to authorize them to prepare the Restoration Plan.

Vice Chairman Riedinger said he is disappointed that Fitzgerald and Halliday were not made aware that there was a cease and desist order on the property until recently. He asked that Mr. Zemba and Hageman do whatever possible to expedite the Restoration Plan so they do not miss the planting season.

Commissioner Stevens asked when they would receive a map showing the surveyed wetland line. Mr. Chiulli said AECOM would be visiting the site tomorrow to do that. Vice Chairman Riedinger asked that that information be submitted to Staff as soon as possible.

Commissioner Lindenberger asked how they could mitigate any wetlands disturbance when removing the debris from the pier. Mr. Zemba said he would suggest they remove the debris before any supplemental plantings are added to the bank. Commissioner Lindenberger asked how Mr. Chiulli planned to prevent debris from building up on the pier each year. Mr. Chiulli said they would have to build a diverter to keep the debris from flowing toward the pier or use a cable system to catch the debris before it hits the pier.

Mr. Sopelak pointed out that the Cease and Desist Order was put in place in August of 2014. On November 7th of 2014 Mr. Chiulli was ordered to prepare a Restoration Plan by the December 10, 2014 meeting. According to the minutes from that meeting, the Commission decided that if the Plan was not submitted in December, fines should be implemented. At the April 8th meeting the Commission established a "hard deadline" for the Restoration Plan to be submitted on May 13, 2015. If not submitted, the Commission could either give Mr. Chiulli more time, or begin the fining process. Staff is recommending that, due to the fact that Mr. Chiulli has not submitted any of the requested information, the Commission issue fines for this violation.

Public Comment

Mr. George Hallihan of 11 Henry Street, Rocky Hill addressed the Commission. Mr. Hallihan is a tenant of Mr. Chiulli's at 45 Evans Street and he believes Mr. Chiulli is stalling. He said Mr. Chiulli has had plenty of time to submit the requested information. He believes Mr. Chiulli has done irreparable damage to the bank and he has even seen him dump oil down that embankment. Mr. Hallihan said the Owner of the property has a history of not getting permits for the work he does and he believes the Commission should fine him.

(Vice Chairman Riedinger leaves at 6:40 p.m. Commissioner Kelly takes over chairing this portion of the meeting.)

Mr. Chiulli responded to comments by Mr. Hallihan by saying he recently evicted Mr. Hallihan for past due rent and he believes Mr. Hallihan is retaliating for that. He also said that he did submit the information that was requested but that it was not in the format that Staff wanted and

they asked that he have one company do all the work. He doesn't believe he should be fined because he already spent a lot of money hiring Fitzgerald and Halliday and AECOM.

Town Manager Guy Scaife addressed the Commission asking that they focus on the facts. There was a tremendous negative impact on the property in 2014. The Cease and Desist Order was issued in August and a Restoration Plan should have been submitted last fall. Mr. Chiulli responded by saying he has submitted "almost everything that was needed" and the Commission did not like the format. He feels he has spent enough money on this and it isn't fair that he is being punished. He believes the Town Manager should be helping him develop the property instead of punishing him.

Commissioner Lindenberger said he feels way too much time has passed and the information should have been submitted sooner. He believes they need to take action to be fair to the residents and businesses in Town that follow proper procedures. He said he is in favor of fining the property owner.

A MOTION was made by Commissioner Lindenberger to keep the current Cease and Desist Order at ADC Enterprises Regulated Area Violations at 45 Evans Road order in place unless the Applicant can convince Town Staff that it would affect the restoration of the property. Commissioner Stevens said he has been asking for the Wetlands Delineation to be done for many months and believes it could have been done sooner. He feels fining the Owner will create a stimulus to get the information submitted.

A FRIENDLY AMENDMENT was made by Commissioner Schweitzer that any work ordered by Town Staff or the DEEP would be allowed. FRIENDLY AMENDMENT accepted.

All were in favor, MOTION CARRIED UNANIMOUSLY.

Mr. Sopelak went over the Regulations regarding options for issuing fines.

A MOTION was made by Commissioner Lindenberger to direct Staff to issue a citation for ADC Enterprises Regulated Area Violations at 45 Evans Road for failure to submit the restoration plan as requested on May 13, 2015 and to begin the fining process effective today at \$200/day until the restoration plan has been received by Town Staff. 6 were in favor (Kelly, Lindenberger, Zak, Schweitzer, Duff, Stevens) 1 opposed (Brown), MOTION CARRIED.

4. PUBLIC HEARING

A. Pratt & Whitney, Division of UTC-proposed sediment removal (remediation) along Dividend Brook located at the former Pratt & Whitney site – 60 Belamose Ave., Assessor's ID 18-088 and 18-089;

Chairman Charamut resumes his seat. Commissioner Kelly read the legal notice and Chairman Charamut went over the procedures for the public hearing.

Mr. Chris Winter from Loureiro Engineering Associates in Plainville addressed the Commission representing the Applicant, UTC, for the removal of zinc impacted sediment in two areas of Dividend Brook. The first area is about 160' sq. ft. and the larger area is about 850 sq. ft. The activities will be conducted during low flow periods, most likely August or September. The smaller area would be surrounded by a 4-sided trench box. Sediment would then be removed and brought to a staging area on top of the landfill. The area would then be restored with a filter fabric and a gravely, sandy material. The larger area requires more time and the use of a bypass channel to divert the water around the excavation area. They would construct the channel, dam the upstream end of the brook and divert the stream. Once the water is diverted they will excavate the contaminated soil and relocate it to the top of the landfill. This work is regulatory driven by the DEEP and EPA.

Commissioner Comments/Questions

Commissioner Stevens asked about the material being put back in to the excavated areas. Mr. Winter said it is a course, sand, gravel mix.

Commissioner Duff asked if a Reseeding and Restoration Plan was submitted to Staff. Mr. Sopelak said the Consultant submitted that information yesterday and it has been reviewed by Staff.

Commissioner Lindenberger was concerned about any aquatic species that might need to be relocated during the cleanup. Mr. Winter said after constructing the upstream dam, they will have the opportunity to get any aquatic life out of the area.

Public

No one was present to speak for or against the Application.

A MOTION was made by Commissioner Schweitzer to close the public hearing for Pratt & Whitney, Division of UTC-proposed sediment removal (remediation) along Dividend Brook located at the former Pratt & Whitney site – 60 Belamose Ave. Seconded by Commissioner Kelly. All were in favor, MOTION CARRIED UNANIMOUSLY.

5. PUBLIC

No one from the public spoke at this time.

6. APPLICATION FOR A PERMIT

A. Pratt & Whitney, Division of UTC-proposed sediment removal (remediation) along Dividend Brook located at the former Pratt & Whitney site – 60 Belamose Ave., Assessor's ID 18-088 and 18-089;

A MOTION was made by Commissioner Kelly to approve the Application for a permit - Pratt & Whitney, Division of UTC-proposed sediment removal (remediation) along Dividend Brook located at the former Pratt & Whitney site – 60 Belamose Ave. Seconded by Commissioner Brown. All were in favor, MOTION CARRIED UNANIMOUSLY.

7. ACTION TAKEN/MINUTES presented for approval for April 8, 2015

A MOTION was made by Commissioner Kelly to approve the minutes and actions of the April 8, 2015 meeting with changes. Seconded by Commissioner Lindenberger. All were in favor, MOTION CARRIED UNANIMOUSLY.

8. DISCUSSION

A. Status Report-Variou Projects

Southbrook Subdivision: All erosion controls have been installed including water bars and the work has been inspected and approved by Staff. The entrance off of Main Street has been closed off.

Town Center West: Work continues; there was a problem with dust control that has been corrected.

Foundry Project: Developer still working with the State for required permits

SMS: Phase I and Phase II reports have been submitted by the Developer.

Commissioner Duff asked if they receive information about the origin of the fill being used for Town Center West. Mr. Sopelak said the fill is coming from an area near Goff Brook that is undergoing renovations by the MDC.

B. Open Space

No discussion.

C. Legislation

No discussion.

D. Conferences

No discussion.

9. CORRESPONDENCE, COMMUNICATIONS

A letter was sent to the Property Owner of **50 Dividend Road** who caused a disturbance by cleaning debris in an area near Hog Brook. The area has been restored, reseeded and hayed.

GLL, LLC., installed a stone wall at **Shad Roe**, near the Rocky Hill Ferry. The wall exceeded the DEEP limits, but since has been approved by the Town and the DEEP.

Owners of 1 Carol Drive were cutting trees, disturbing land and piling woodchips in the 100' upland review area to the rear of the property. Some trees were actually on the Town's property. A Cease and Desist Order is being issued and Staff is working with the Owner on a restoration plan.

10. OTHER BUSINESS

No discussion.

11. ADJOURN

**A MOTION was made by Commissioner Kelly to adjourn the meeting at 7:35 p.m.
Seconded by Commissioner Larry Lindenberger. All were in favor, MOTION CARRIED
UNANIMOUSLY.**

Respectfully submitted,

Eileen A. Knapp
Recording Secretary